

1 the, in the proffer.

2 JUDGE SIPPEL: Do you intend any witnesss other than  
3 yourself?

4 MR. BROWN: Not at this time. I don't, I don't have  
5 any witnesses to testify to anything other than what I can  
6 provide myself.

7 JUDGE SIPPEL: Who handles, who, who handles your  
8 mail for you?

9 MR. BROWN: Well, I do and the, and the son, James.

10 JUDGE SIPPEL: Well, you've got, you've got to  
11 remember that the issue about the receipt or the not receipt  
12 of those letters might become--well, it would be, it would be,  
13 it would be important in light of the fact that you're  
14 litigating the issue on whether or not you have received it,  
15 you may want to think about bringing your son up if he has got  
16 personal knowledge about how mail is handled at your station.

17 MR. BROWN: Yes, sir.

18 JUDGE SIPPEL: Think about that. You're not  
19 obligated. As I say, you make these decisions. I'm not  
20 telling you how to try your case.

21 MR. BROWN: Yes, sir.

22 JUDGE SIPPEL: But if he is going to testify, you

1       have to list him as a witness and you have to give a summary  
2       of what he is going to testify to.

3               MR. BROWN: Yes, sir. I will do that if he comes.

4               JUDGE SIPPEL: If he is only going to testify as to  
5       mail, as to the mail issue, that is, what he has received in  
6       the mail, then that's all you, that you should put down in the  
7       summary.

8               If he is going to testify to other things such as  
9       how he worked at the station or that type of things, then you  
10      would have to put that down, too.

11              Again, it's a summary form. It does not have to be  
12      a complete statement of what his testimony is. That's the way  
13      that the structure of the trial brief is, and this will permit  
14      you to get on the stand and you and whoever else is going to  
15      testify, and the Bureau would be--I would ask you some  
16      preliminary questions, and the Bureau would be permitted to  
17      cross-examine you or treat you as a hostile witness in the  
18      sense of eliciting the information, and then of course you  
19      would be free to testify initially on anything that you wanted  
20      to testify to that you've outlined in your trial brief, and  
21      then after you're cross-examined, you would also be able to  
22      testify again as to any items that were brought out on

1 cross-examination that you had not already covered, so if  
2 you're going to be--in other words, I'm just telling you this  
3 to indicate to you how you're going to have your day in court.

4 Some of what you put down for the summary of what  
5 the witness is expected to testify to may include things that  
6 you have already put down in the proffer before that.

7 Do you understand what I'm saying?

8 MR. BROWN: Yes, sir.

9 JUDGE SIPPEL: So if you want to incorporate it by  
10 reference, you can say that, you know, brief summary of what  
11 the witness will testify or I will testify to, and then write  
12 out what it is that you expect to testify to, and even you,  
13 then you might say in addition, I will be testifying to the  
14 matters that are up on the previous section on the proffer if  
15 that helps you in terms of time.

16 MR. BROWN: Yes, sir.

17 JUDGE SIPPEL: Am I making myself clear?

18 MR. BROWN: Yes, sir, you are. I have, pretty well  
19 have what plans and laid out as to what I'm going to present  
20 and--to you and to the court.

21 JUDGE SIPPEL: All right. Well, I have, I feel I  
22 have an obligation here this morning to be sure that you have

1 a full understanding of what the procedures are because you're  
2 without a lawyer.

3 MR. BROWN: Yes, sir. I appreciate that.

4 JUDGE SIPPEL: And your response to me is making me  
5 more and more convinced that you know exactly what is going on  
6 and that you are very well capable of putting together a trial  
7 brief.

8 MR. BROWN: Yes, sir.

9 JUDGE SIPPEL: Now do you see item C? And C, C is a  
10 list of documents. I want to be sure you have it all. Read  
11 it to me, what you have in C.

12 MR. BROWN: All right. Let me get the paperclips  
13 and turn the page. C and D--

14 JUDGE SIPPEL: Read it to me.

15 MR. BROWN: List of documents which will be moved  
16 into evidence, a brief description of each document, a  
17 statement of relevance with respect to each document.

18 JUDGE SIPPEL: All right. Now if you have documents  
19 that you're going to put in evidence that are different from  
20 the documents that the Bureau is going to put in, you  
21 certainly have to include those documents. Let me give you an  
22 example.

1           I would like to see certainly a copy of that  
2       partnership agreement come into the record so that there is a  
3       complete record in terms of showing exactly who owns the  
4       station.

5           Again, that's a background item. It doesn't really  
6       go directly to the violations that the Bureau is concerned  
7       with.

8           MR. BROWN: Yes, sir.

9           JUDGE SIPPEL: But that document perhaps might not  
10      be what the Bureau is going to submit. I would like to see it  
11      in the record. I would like you to produce that. I would  
12      like you to mark it as an exhibit and bring it in.

13           When I say bring it in, I mean bring it into the  
14      record. In order to do that, you're going to have to come up  
15      with two copies of that document so that the reporter can mark  
16      them and receive them into the record.

17           MR. BROWN: Yes, sir. That's no problem.

18           JUDGE SIPPEL: All right, but you don't know that.  
19      I'm telling you now.

20           MR. BROWN: Yes, sir.

21           JUDGE SIPPEL: So you are really going to have to  
22      have at least three copies available. One is going to

1       be--actually more than three. Let me say if the copies are  
2       going to be what you're going to put into evidence, you also  
3       have to attach copies of those or submit them along with your  
4       trial brief.

5               MR. BROWN: Yes, sir.

6               JUDGE SIPPEL: So you would have to make a copy of  
7       that for the Bureau. You would have to make copies to  
8       put--well, I'm not going to require the trial brief to be  
9       filed with the secretary.

10              MR. BROWN: Okay. Just be filed with you.

11              JUDGE SIPPEL: I'm saying--let me see if Ms. Laden  
12       has an objection to that.

13              My, my theory is the trial brief is to help the  
14       attorneys and it's to help the judges. The record is going to  
15       be made here in court, and I'm trying to keep this, the  
16       expense and the difficulties to a minimum.

17              What would be your position with respect to that,  
18       Ms. Laden?

19              MS. LADEN: I have no--I may file mine because--

20              JUDGE SIPPEL: Fine.

21              MS. LADEN: Because we have a policy of filing them,  
22       but I can't think of any reason that it would need to be

1       filed, Your Honor. I tend to agree with you.

2               JUDGE SIPPEL: All right. You don't have to file it  
3 then, which is going to save you making six copies and  
4 shipping them up to the secretary's office.

5               MR. BROWN: Okay.

6               JUDGE SIPPEL: Do you understand that? Do you  
7 understand what I'm saying?

8               MR. BROWN: Yes, sir. Yes, sir, I do. I will send  
9 you a copy and Ms. Laden a copy.

10              JUDGE SIPPEL: That is exactly right. And if  
11 it's--unless you're doing it, you know, a week before the  
12 22nd, if you're getting on close to the 22nd, I'm going to  
13 require that you air courier it, send it by air carrier or air  
14 express.

15              MR. BROWN: Yes, sir, I will.

16              JUDGE SIPPEL: So pack it up in a package and you  
17 know, get the air courier folks to deliver them up to Ms.  
18 Laden and myself. Then we are sure we are going to have them  
19 and we are sure we will have them in plenty of time, and it's  
20 to your advantage to get them in a little bit earlier because  
21 if I have problems or questions or Ms. Laden does, we might be  
22 able to get back to you by telephone before the trial and tell

1       you that there are problems or there are, you know, we want,  
2       we want you to bring in more information on something.

3               MR. BROWN: Yes, sir.

4               JUDGE SIPPEL: So on the other hand, I don't want to  
5       push you to come in too early with your file brief because it  
6       does require work.

7               Let me move on. I think you have got it all under  
8       control, so I may be overly-compulsive about this. I hope I  
9       am.

10              The last thing on the outline for the trial brief  
11       are the points and authorities on anticipated evidentiary,  
12       procedural, and substantive issues citing only key cases.

13              Well, I certainly don't expect you as a non-lawyer  
14       to have to come up with cases to justify what it is that  
15       you're doing.

16              Do you know what I mean by a case?

17              MR. BROWN: Yes, sir. I know what that means.

18              JUDGE SIPPEL: What does it mean to you?

19              MR. BROWN: Previous cases that has been tried and  
20       the outcome of them.

21              JUDGE SIPPEL: That's correct. Now if you have  
22       access to those, you're free to do it. I mean you're free to,



1 to put in as much as you want on that point.

2 All I'm saying is that by virtue of the fact that  
3 you don't have an attorney in this case, I'm not expecting to  
4 see much from you on item D, so focus your attention on A, B  
5 and C.

6 MR. BROWN: All right, sir.

7 JUDGE SIPPEL: Okay?

8 MR. BROWN: Yes, sir.

9 JUDGE SIPPEL: All right. Now the hearing is going  
10 to start at 9:30 on the 29th, and the reason I'm setting it  
11 for 9:30 is because I'm expecting that we are going to be able  
12 to finish it in one day.

13 MR. BROWN: Yes, sir. I hope so.

14 JUDGE SIPPEL: That's going to depend a lot on you,  
15 and it's going to depend on the number of witnesses that you  
16 have, so it's hard for me to say. I can't guarantee a one-day  
17 trial until I see the number of witnesses that you're going to  
18 have and to see what the nature of the proof is that's going  
19 to come in with your trial brief.

20 I'm here all week to hear the evidence, so I mean  
21 it's no burden on me as to whether or not it goes one day or  
22 two days.

1           MR. BROWN: Yes, sir.

2           JUDGE SIPPEL: But I would be willing to stay until  
3 4:30 or five o'clock to finish it up on Monday if I had to.

4           MR. BROWN: Yes, sir.

5           JUDGE SIPPEL: So that you could--you wouldn't have  
6 to come in on Tuesday, but I'm just--we will have to play that  
7 one by ear and see how it goes.

8           MR. BROWN: Yes, sir. That will have to be played  
9 as we go.

10          JUDGE SIPPEL: All right. Now both of you have  
11 filed the status report, and I, I have gone back, as I said,  
12 and read the answers to the admissions. There seems to be,  
13 there is seriously a factual issue here, but I want to ask  
14 this question. Let me get down to something that really  
15 hasn't been covered yet, and that is it appears as though  
16 you're claiming, Mr. Brown, that through failures to receive  
17 communications from the Commission--

18          MR. BROWN: Yes, sir. There is two letters that I  
19 did not receive.

20          JUDGE SIPPEL: I understand. I'm not going to get  
21 into that now because you're going to get into that at length  
22 at the trial, and I understand that you were very, very

1 responsive to the Bureau's request for admissions, so I can  
2 read those, and I understand what your position is, but let me  
3 ask you this--my understanding is that you, again, you're  
4 saying that you didn't receive two letters, and you also had  
5 an understanding that there was an AM freeze which would have,  
6 which meant that there was nothing, that in your mind, there  
7 was nothing that you could do to move your station to another  
8 site, to move your transmitter to another site to, to make  
9 application for that kind of relief, is that correct?

10 JUDGE SIPPEL: Yes, sir. The freeze was on. The AM  
11 freeze. They were not taken. It was--

12 JUDGE SIPPEL: That's okay. I don't want to get--I  
13 just want you to acknowledge that my understanding is  
14 basically accurate from what your--

15 MR. BROWN: Yes, sir. That's the case.

16 JUDGE SIPPEL: As you see the case--all right. Now  
17 so it is your intention now to put that AM station back on the  
18 air again?

19 MR. BROWN: Yes, sir, as soon as I can get the--it  
20 will depend on, you know, the Commission and you, and those  
21 two things.

22 JUDGE SIPPEL: All right. Let me just ask this

1 question because the Commission does have a very strong policy  
2 in favor of settlement.

3           Would it be--and I'm asking this of the Bureau as  
4 well--would it be, would it be worthwhile to, to try and  
5 negotiate some kind of a forfeiture that would, in light of  
6 the fact that this person does have an intention to go  
7 forward, he wants to put the station back on the air, assuming  
8 that is being stated in good faith and that he can convince  
9 the Bureau that he really does want to do that, does it make  
10 any sense to talk settlement in the context of a forfeiture  
11 for his failure to go, for his going off the air without  
12 authorization, looking at it as kind of a quote, technical  
13 violation?

14           MS. LADEN: Well, Your Honor, we have talked. Mr.  
15 Brown and I have talked a lot about possible approaches to  
16 this. Unfortunately, there is no, there is not a lot of  
17 precedent, if any, for settling, and there is no rules for  
18 settlement of a revocation case, so it wouldn't be a  
19 settlement.

20           The revocation order comes from the Commission, and  
21 it requires the findings of fact under the revocation order.  
22 In other words, I don't think--there is only one way in my

1 view that, that a case, a revocation case can be resolved  
2 short of hearing, and that is if the licensee waives his right  
3 to a hearing.

4 That still requires the Commission to make the  
5 findings of fact, and the Commission might decide not to  
6 revoke and instead do a forfeiture, but the Bureau, even  
7 though the Bureau issued or I believe this order was issued by  
8 the Commission, but even if it had been issued by delegated  
9 authority, once the case has been designated for hearing, the  
10 Bureau doesn't have the authority to terminate the proceeding.  
11 Only Your Honor can terminate the hearing proceeding, and even  
12 then, the Commission has to make a finding or the Bureau chief  
13 by delegated authority has to make a finding as to the facts  
14 in the, in the revocation order.

15 JUDGE SIPPEL: What about summary decision?

16 MS. LADEN: That's a possibility, and as I said,  
17 there is--under 1.92, which I have discussed with Mr. Brown,  
18 Mr. Brown can at any time submit a statement in which he  
19 waives his right to a hearing.

20 At that point, he has the right to submit a  
21 statement in mitigation which the Commission will consider as  
22 part of its decision.

1           At that point, Your Honor has the authority to  
2       certify the case to the Commission for a decision because  
3       since the hearing has been waived, there is no finding of fact  
4       to be made here. It gets certified to the Commission, and the  
5       Commission makes a decision based on the facts and the written  
6       statement.

7           I have discussed this with Mr. Brown. My impression  
8       from my conversations with Mr. Brown is that he contests, as  
9       he has every right to do, he contests the factual basis for  
10      the revocation and he wishes to fight the revocation, and he  
11      has a right to do that, and he has a right to proceed to  
12      hearing, but he and I have discussed several other approaches.

13           We have talked about his filing an application to,  
14      to, a modification to move to another site. We've--he has  
15      talked with the AM branch.

16           The other problem, and this is also in connection  
17      1.92, Your Honor, that is that an action which corrects the  
18      violation, which going on the air does not correct a  
19      violation, and I'll get to that in a second, but even if it  
20      did, a corrective action does not preclude the revocation  
21      under Section 1.92. We would still need to resolve the issue  
22      of the revocation.

1           Now the revocation order is for violating the  
2   Commission's rules which requires the station to obtain  
3   permission before it remains silent. That violation exists.  
4   It's not a continuing violation in the sense that, you know,  
5   we are, he would not be able to get permission to remain  
6   silent today if he asked for it because the case has been  
7   designated for hearing, but the violation is a violation of  
8   the rules which occurred, and if he went on the air tomorrow,  
9   the violation still occurred during the period of time when it  
10  occurred.

11           I think his going--and I think 1.92 recognizes that  
12   when it discusses corrective actions. I think his going back  
13   on the air would be a corrective action which the Commission  
14   will consider in mitigation, but it doesn't do anything about  
15   the violation of the rules which require permission before the  
16   station was silent.

17           JUDGE SIPPEL: Go ahead. I'm sorry.

18           MS. LADEN: So my point is that going on the air  
19   does not in the Bureau's view cure the violation, so we would  
20   have no reason to take any action other than the action that  
21   we took in designating the case for revocation hearing.

22           Now as I said, it can be considered a mitigation.

1 Your Honor can certainly consider that a mitigation.

2 JUDGE SIPPEL: I'm trying to think--I think I did  
3 have a case on the cellular side, a revocation case on the  
4 cellular side that it ended up being resolved by way of  
5 summary decision, but there was--of course I couldn't give a  
6 commitment up front as to how I would decide on the paper.  
7 The papers had to come in and I had to be convinced from the  
8 papers, but the Bureau was taking a, that's the Common Carrier  
9 Bureau was taking a, was not assuring me but was giving me  
10 reasonable assurance that they would not oppose summary  
11 decision in that case.

12 MS. LADEN: That's correct. I could file a motion  
13 for summary decision. Mr. Brown could file a motion for  
14 summary decision. The rules certainly contemplate that.

15 At this point, I don't--I think there are enough  
16 factual issues remaining that I am not interested in filing a  
17 motion for summary decision in either direction.

18 JUDGE SIPPEL: So I take it you would oppose his  
19 motion if he filed it just based on what we know now?

20 MS. LADEN: I believe I would based on what we know  
21 now. Some of the things that he has raised in his admissions  
22 are very clear, and we will get into this when we go into the



1       hearing.

2               The non-receipt of one of the letters is very clear  
3       from looking at the address that is on the face.

4               JUDGE SIPPEL:   The Pittsburgh letter?

5               MS. LADEN:   That address, Pittsburgh, Your Honor, is  
6       our own lock box, so I can stipulate that he did not receive  
7       that letter because we mailed it to our own lock box.   That, I  
8       have no doubt that he did not receive that one.

9               The other one, I don't know why he did not receive,  
10       but it will be the Bureau's position that it doesn't matter  
11       whether he received the letter or did not receive the letter,  
12       because he did not request permission to remain silent past  
13       the expiration date of the previous permission.

14              The letter which was sent to the lock box involved  
15       permission to have, to conduct field tests.   It did not  
16       involve permission to remain silent.

17              JUDGE SIPPEL:   I read that, too.   I see that.

18              MS. LADEN:   So in other words, there are a number of  
19       other issues here.   I'm not sure what we will recommend, what  
20       we would recommend after all the facts are in, and as I said,  
21       Mr. Brown and I have discussed, we are interested in resolving  
22       this in the speediest and the best way, and we have discussed

1       possibilities for, you know, for any number of approaches all  
2       the way from submitting the license for cancellation all the  
3       way to, you know, waiving the hearing, and I've told Mr. Brown  
4       what the rules provide for. He has a right to go to hearing,  
5       and he has some legitimate facts that he wants to bring to  
6       Your Honor's attention.

7               JUDGE SIPPEL: Well, do you have anything to add to  
8       that? What I was trying to explore, Mr. Brown, was whether or  
9       not there is a possible way of taking care of this case  
10      without a hearing. It's difficult. Unless you have something  
11      more to, to convince me otherwise, I don't see where we  
12      can--there is no other way that we can make a record in this  
13      case it seems to me than to put you on the record and take  
14      your testimony and get done with it.

15             MR. BROWN: Well, just what Ms. Laden said in the  
16      letter of August the 16th of '91. In sending that letter,  
17      that was what that was for, but I didn't say that, and that  
18      was left out, and it's too late now to go back and correct it,  
19      but that was the intention of that letter is to remain silent,  
20      and until we could get the, everything together to file with  
21      the Commission to, due to the freeze, that to come back on the  
22      air, it was my understanding that the Commission would not

1       accept an application for a major change at that time until  
2       the freeze was lifted, which didn't actually occur until April  
3       the 19th of '92, so that was my intentions of the letter of  
4       August 16th of '91, and Ms. Laden says that, or the orders or  
5       some of this paper say that we were illegally off the air from  
6       January--I don't have that date right in front of me, but I  
7       got it here, but it's--January of '91 until, until I heard  
8       about the station being on the list of ten stations to have  
9       their license revoked, and as soon as I heard that, I called  
10      the Commission and talked with--

11               JUDGE SIPPEL: I'm sorry. I don't want to cut you  
12      off, Mr. Brown, but again, you're going back into the same,  
13      the same version of the facts that you have already laid out,  
14      and you're going to have to testify to this.

15               MR. BROWN: Okay.

16               JUDGE SIPPEL: My point is that no matter how these,  
17      no matter which version of the facts--well, let me restate  
18      that.

19               No matter how I interpret the facts as my job as the  
20      fact finder in the case--

21               MR. BROWN: Um-hum.

22               JUDGE SIPPEL: I don't see how a hearing can be

1       avoided.

2               MR. BROWN:  Yes, sir.

3               JUDGE SIPPEL:  If you put all of these facts down in  
4       an affidavit, it would, first of all, it would take you an  
5       enormous amount of time to do it the right way, and it  
6       probably would not answer all the questions that I have.

7               MR. BROWN:  Yes, sir.

8               JUDGE SIPPEL:  Nor would the Bureau--the Bureau  
9       would more than likely also find some questions with respect  
10      to how you're stating the facts, so I don't--I have tried to  
11      explore another alternative than going to trial in this case,  
12      but I don't see that there is that alternative, and you have  
13      just made it clear to me why.  Okay?

14              MR. BROWN:  Yes, sir.

15              JUDGE SIPPEL:  All right, so we can talk about  
16      something else now.

17              MR. BROWN:  Could I say one thing, please?

18              JUDGE SIPPEL:  Go right ahead.

19              MR. BROWN:  What I have been in talk with Ms. Laden,  
20      I have been trying to let her know that we are willing to do  
21      whatever it takes, you know, to make amends and make things  
22      right and to do what is right and do what the Commission would

1       have us to do to get the station back on the air.

2               I have a person that would like to buy quite a bit  
3       of the station's time to come up, and that's what we were in  
4       the process of doing when I heard about the other thing, so if  
5       there is anything that we could do, and as you say, it don't  
6       appear to you that we can without a hearing, but if something  
7       changes and Ms. Laden has seen a change that we could do  
8       something to, before the hearing came up, would there be any  
9       possibility of not having the hearing?

10              JUDGE SIPPEL: Well, I'm always available to talk  
11       about that, but it's the--that is going to have to be, that  
12       approach is going to have to be initiated by you. You're  
13       going to have to convince Ms. Laden, and she has got the  
14       policy of the Bureau that she has to factor into this. It is  
15       not just her personal decision.

16              MR. BROWN: Yes, sir.

17              JUDGE SIPPEL: But if you, both of you come approach  
18       me before the hearing and advise me that you think that you  
19       have got a way that you can handle this if this case can be  
20       resolved without a hearing, I'll immediately call a conference  
21       and I'll consider that.

22              MR. BROWN: Yes, sir.

1 JUDGE SIPPEL: But it just seems to me that by  
2 virtue of the nature of the proceeding, which is a revocation  
3 proceeding--

4 MR. BROWN: Yes, sir.

5 JUDGE SIPPEL: It's a hearing designation order that  
6 was issued directly by the commission. There is going to have  
7 to be some findings of fact with respect to the violations  
8 that are alleged against you and a findings of fact, normally  
9 findings of fact can only be made in two ways, either by way  
10 of a hearing after you do all the testimony and put all the  
11 documents in and then you get the transcript back and go  
12 through the transcript and the documents and put together the  
13 facts from that kind of evidence, which is really the best  
14 evidence.

15 MR. BROWN: Yes, sir.

16 JUDGE SIPPEL: Or an alternative sometimes is  
17 summary decision where instead of going before me in a  
18 courtroom, you put it all together in, on a piece of paper or  
19 pieces of paper and write it all up in an affidavit form, but  
20 the difficulty with that second approach is that there is  
21 nothing that I could tell you in advance that I would be  
22 convinced that that evidence would do what you want to

1 accomplish.

2 In other words, you would be giving it to me. You  
3 would be waiving your right to a hearing, and you wouldn't  
4 know in advance as to how I'm going to come out on it.

5 MR. BROWN: Yes, sir.

6 JUDGE SIPPEL: In addition to that, from what Ms.  
7 Laden has said, she doesn't see how the Bureau at this point  
8 could go along or in other words could buy your arguments on a  
9 summary judgment motion.

10 MR. BROWN: Yes, sir.

11 JUDGE SIPPEL: Again, that she hasn't even seen your  
12 motion papers, so she couldn't commit herself in advance.

13 MR. BROWN: Yes, sir.

14 JUDGE SIPPEL: So I think that you would run a  
15 serious risk of losing the case on the papers to begin with.

16 MR. BROWN: Yes, sir.

17 JUDGE SIPPEL: Even if you didn't lose at my level,  
18 it could possibly be lost at the Commission level and you  
19 would never have had your hearing.

20 MR. BROWN: Yes, sir.

21 JUDGE SIPPEL: So I mean I keep coming back to  
22 saying the same thing, but there are a lot of technicalities

1       that Ms. Laden has outlined that I hadn't considered before  
2       coming in here today. I will be very candid with you, and--

3               MR. BROWN: Yes, sir.

4               JUDGE SIPPEL: If there is any of these, if there is  
5       any technical approach that you and she can work out  
6       preliminarily, I'm always here to listen to it.

7               MR. BROWN: Yes, sir.

8               JUDGE SIPPEL: But I think that this is clearly, as  
9       I see it, from my experience in hearing Commission cases,  
10      going back to 1986, this seems to me clearly to be a case that  
11      is going to just have to be tried as long as you're going to  
12      persist in the position that you're taking.

13              MR. BROWN: Yes, sir.

14              JUDGE SIPPEL: And I don't mean that to criticize  
15      your position.

16              MR. BROWN: I understand.

17              JUDGE SIPPEL: So we'll, we are going, I'm going to  
18      work on that assumption, and I want to be sure that I and that  
19      everybody else connected with this case are using the energies  
20      that it's going to take to get ready for a trial.

21              MR. BROWN: Yes, sir.

22              JUDGE SIPPEL: Now do you need any additional



1       discovery? Do you know what I mean by discovery?

2               Do you need anything more from the Bureau to find  
3       out what its case is about?

4               MR. BROWN: Not at this time that I know of. When I  
5       know to put all this together, there might be something that I  
6       might need, but right now, I don't know of anything.

7               JUDGE SIPPEL: You're running out of time. I'll be  
8       somewhat flexible if there is a document or something that  
9       you're missing, but you're running out of time in terms of  
10      getting discovery.

11              MR. BROWN: Yes, sir.

12              JUDGE SIPPEL: Unfortunately, as I say, you're not a  
13      lawyer, but you're obligated to know and to follow under the  
14      Commission's rules, and there are rules under which you file  
15      formal motions to request documents. If it's, a subpoena is  
16      necessary for somebody who is not a party to the case, you  
17      have to apply for subpoenas.

18              MR. BROWN: Yes, sir.

19              JUDGE SIPPEL: None of that has happened, and it  
20      sounds like none of that is going to happen from how you're  
21      talking about preparing your case, but it's now the--I'll give  
22      you--today is--I'll give you until the 5th of June to consider